

REMARKS/ARGUMENTS

Claims 1-37, 40, and 41-42 are pending in this application after entry of this amendment, with claims 38 and 39 having been cancelled without prejudice or disclaimer and claims 41 and 42 having been added. In the office action, claims 3, 5-7, and 20 were rejected under 35 U.S.C. §102(e) as being anticipated by Bertram (U.S. Publication 2003/0140340). Claims 1-2 were rejected under 35 U.S.C. §103(a) as being unpatentable over Colligan et al. (U.S. Pat. 6,415,031) in view of what the examiner referred to as "Applicant's Admitted Prior Art". Claims 4, 21 and 32 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bertram (U.S. Publication 2003/0140340), in view of Dunn et al. (U.S. Pat. 6,154,772). Claims 15-16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bertram (U.S. Publication 2003/0140340), in view of Dunn et al. (U.S. Pat. 6,154,772) and further in view of what the examiner referred to as "Applicants' admitted prior art". Claim 8 was rejected under 35 U.S.C. §103(a) as being unpatentable over Bertram (U.S. Publication 2003/0140340), in view of what the examiner referred to as "Applicants' admitted prior art." Claims 9, 19, 22, 31, and 33-34 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bertram (U.S. Publication 2003/0140340), in view of Colligan et al. (U.S. Pat. 6,415,031). Claims 10-14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bertram (U.S. Publication 2003/0140340), in view of Colligan et al. (U.S. Pat. 6,415,031), and further in view of what the examiner referred to as "Applicants' admitted prior art." Claims 17-18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bertram (U.S. Publication 2003/0140340). Claims 23-24 and 26-29 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bertram (U.S. Publication 2003/0140340) in view of what the examiner referred to as "Applicants' admitted prior art." Claims 25, 30, and 35-37 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bertram (U.S. Publication 2003/0140340) in view of what the examiner referred to as "Applicants' admitted prior art", and further in view of Colligan et al. (U.S. Pat. 6,415,031). Claims 38-39 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dunn et al. (U.S. Pat. 6,154,772), in view of Colligan et al. (U.S. Pat. 6,415,031). Claim 40 was rejected

under 35 U.S.C. §103(a) as being obvious over Bertram (U.S. Publication 2003/0140340) in view of Safadi et al. (U.S. Pat. 6,256,393).

Time Limited Control Messages

Independent claims 1, 3, 17, 20, and 24 have now been amended to recite time limited control messages. For example, claim 1 now recites "time limited entitlement control messages." Claim 17 recites "time limited entitlement messages" while claim 20 recites a "time limited control message." Claim 24 recites "time limited entitlement control messages." Support for time limited control messages is found in the applicants' specification, for example, on page 10 at paragraph 44 of the applicants' specification.

In the office action, the Bertram and Colligan references were cited for the elements of control messages. Notably, the Bertram and Colligan references do not teach time limited control messages. The Bertram reference teaches generation of a stream of data with an embedded message that is formed and immediately transmitted to a subscriber. Thus, Bertram does not teach a time limited control message. Furthermore, the Colligan reference teaches encryption of a program and generation of a control message eventually followed by complete decryption of the encrypted program and then generation of a completely different encryption of the program through use of a different encryption key. Thus, Colligan never even generates a second control message for the encrypted program--instead creating an entirely new encrypted program. Thus, Colligan also does not teach time limited control messages.

Since Bertram and Colligan fail to teach time limited control messages as recited by independent claims 1, 3, 17, 20, and 24, these independent claims are believed to be in condition for allowance. Furthermore, all the dependent claims that depend from these claims are similarly believed to be in condition for allowance.

New Claims 41 and 42

New claims 41 and 42 are presented for examination. It is noted that claim 41 recites the feature "without requiring decryption of said pre-encrypted content."

Reference to Applicant's Specification

The office action in several instances referenced the applicants' specification as making admissions as to what was prior art. The use of the applicants' specification in this way is respectfully traversed. Unless an applicant specifically notes that something is known in the prior art, it is clearly not an admission. The MPEP points out in section 2129 that where the specification identifies work done by another as prior art, such as by labeling drawings as "prior art" then it is acceptable as an admission. However, such an admission does not exist in this case; therefore, the use of applicants' specification as "admitted prior art" is respectfully traversed in all instances where it was asserted in the office action. Furthermore, since the office action relied on the applicants' specification in rejecting claims 1,2, 15, 16, 8, 10-14, 23, 24, 26, 27, 28, 29, 25, 30, 35, 36, and 37, the rejection of those claims is respectfully traversed as failing to establish a prima facie case of unpatentability.

Specification Amendments

New paragraphs [01] and [117] have been submitted for replacement of the previous paragraphs. Paragraph [01] now includes application numbers while paragraph [117] refers to cable system 504 shown in Fig. 5.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

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PATENT

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,



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